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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/356,543	07/19/1999	MATTHEW D. BARNHART	VMS98-01PM	7963

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

EXAMINER

RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
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2175

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/356,543

Applicant(s)

BARNHART ET AL.

Examiner

Sam Rimell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9, 12-15 and 18-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 9, 12-15, 18-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- ☐ Interview Summary (PTO-413) Paper No(s). ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9, 12-15 and 18-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorne ('293) in view of Ballantyne et al. ('821).

Dorne discloses a computer having a memory to store a software program (FIGS 2A-8B) and a physician interface (108, 116). The memory can store patient information (FIGS. 2A-through 3G) and billing code information (FIGS 3F and 3G) which are specific to particular physicians (See lower left corner of FIGS. 3F and 3G).

The system of Dorne also permits the presentation of a patient list FIGS. 2C and 2D. The list of patients shown in FIG. 2D are sorted according to their last name, so the list can be said to be sorted according to the location of the patient's last name on the overall list of patients.

FIG. 2D also illustrates the presentation of a patient list sorted by last name and allows each patient to be associated with a specific physician (see "Radiologist" in lower left hand corner of FIG. 2D).

The software of Dorne provides guideline notifications associated with different billing codes (FIG. 3G). Whenever one of the codes are selected from box 156 (FIG. 3F), the code and its associated guidelines are downloaded to the user, as seen by the screen in FIG. 3G. The pop-up display of the code and its associated guidelines read as the claim flag or alarm. Whenever a new billing code is selected from the box 156 in FIG. 3F, a changed billing code and changed

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procedure information can appear in the pop-up box of FIG. 3G. The changed billing code and changed guidelines are effected by selecting a different billing code for viewing.

All of the billing code and diagnosis codes illustrated by Dorne are specific to physicians. For example, FIGS. 3F and 3G (lower left corner) illustrate that the download of data is for a specific physician and a specific patient. The specific physician is "Steve S Smith" and the specific patient is John J. Jones.

The system of Dorne further provides menus for medical procedures (lower right corner of FIG. 3G) and management (lower left corner of FIG. 3G).

Dorne differs from the claims in that it does not disclose a handheld processor that includes an interface to communicate with an interface device to download data.

However, FIG. 1 of Ballantyne et al. discloses a personal digital assistant (PDA) that comprises a physician interface (writing surface, col. 14 line 25) and an additional interface to permit communication of data to a nursing station computer via wireless link (col. 12, lines 35-37). The Ballantyne et al. device is specifically tailored to enter patient information into a patient health record (col. 13, lines 29-37) and down load the data to a nursing station (col. 14, lines 30-31).

It would have been obvious to one of ordinary skill in the art to modify the software program Dorne to be applied to the PDA of Ballantyne et al. so as to permit the physician to enter data while performing rounds in a hospital and thus improve healthcare quality (col. 2, lines 55-62 of Ballantyne et al.).

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Remarks

Applicant's arguments have been considered.

Applicant argues that the device of Dorne is not a hand held device. While this true, the reference to Ballantyne is cited for its teaching of a handheld device that stores physician and patient information. Examiner maintains that it would have been obvious to operate the system of Dorne on a hand held PDA in view of the teachings of Ballantyne et al.

Applicant argues that Dorne does not teach a physician specific patient list or of downloading billing codes that are physician specific. However, Dorne is found to teach both of these features. FIG. 2D illustrates the display of a patient list associated with specific radiologists. FIGS. 3F and 3G illustrate the display of billing codes that are specifically associated with a single radiologist "Steve S Smith".

Applicant further argues that neither Dorne nor Ballantyne et al. disclose a location sorted list of patients. However, Dorne is found to teach this feature in the manner which it is claimed. FIG. 2D illustrates the display of a patient list. The list is sorted according to last name. Thus, it can be stated that the list of patients is sorted according to the location of patient's last name on the overall list of patients.

This office action is non-final.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (703) 306-5626.



Sam Rimell
Primary Examiner
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